

CHAPTER 4. ENVIRONMENTAL ASSESSMENTS AND FINDINGS OF NO SIGNIFICANT IMPACT

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400. INTRODUCTION. This chapter summarizes and supplements CEQ requirements for environmental assessments (EA) and findings of no significant impact (FONSI). According to 40 CFR 1508.9 and Order DOT 5610.1C CHG 1, paragraph 4d (July 13, 1982), an environmental assessment (EA) is a concise document used to describe a proposed action's anticipated environmental impacts. In 1978, the CEQ revised its regulations to allow agencies to prepare EAs in accordance with section 102(2)(E) and 40 CFR 1501.2c and 1507.2(d), when the following conditions apply or at any time to aid in agency planning and decisionmaking.

a. When to prepare an EA. An EA, at a minimum, must be prepared for a proposed action when the initial review of the proposed action indicates that :

- (1) It is not categorically excluded (see figure 3-2 and paragraph 303);
- (2) It is normally categorically excluded but, in this instance, involves at least one extraordinary circumstance (see paragraph 304);
- (3) It is highly controversial on environmental grounds (see paragraph 304n); or
- (4) The action is not one known normally to require an RIS and is not categorically excluded.

b. Actions not causing significant environmental effects. If, based on an EA, the responsible FAA official determines that the proposed action would not cause a significant environmental effect, the responsible FAA official shall prepare a FONSI for the signature of the approving official.

c. Actions causing significant environmental effects. If, based on an EA, the responsible FAA official determines that the proposed action would cause a significant environmental effect, and mitigation would not reduce that effect below applicable significance thresholds, the responsible FAA official shall publish a notice of intent (NOI) to prepare an EIS in the Federal Register and begin the EIS process. When the responsible FAA official anticipates that significant effects may result, a decision can be made to prepare an EIS without first developing an EA.

401. ACTIONS NORMALLY REQUIRING AN ENVIRONMENTAL ASSESSMENT (EA). The following actions are examples of actions that normally require an EA. Some FAA projects involve actions by multiple FAA program offices. The overall significance of these actions, when viewed together, governs whether an EA or an EIS is required.

- a.** Acquisition of land for, and the construction of, new FAA facilities.
- b.** Issuance of aircraft type certificates for new, amended, or supplemental aircraft types for which environmental regulations have not been issued, or new, amended, or supplemental engine types for which regulations have not been issued, or where an environmental analysis has not been prepared in connection with regulatory action.
- c.** Evaluation of new launch vehicles for new, amended, or supplemental types of launch vehicles, for which licenses have not been issued, or where an environmental analysis has not been prepared in connection with regulatory action.
- d.** Aircraft/avionics maintenance bases to be operated by the FAA.
- e.** Authorization to exceed Mach 1 flight under 14 CFR 91.817.
- f.** Establishment of FAA housing, sanitation systems, fuel storage and distribution systems, and power source and distribution systems.

(DRAFT Order 1050.1E Chapter 4)

(date of draft: October 30, 1999)

g. Establishment or relocation of facilities such as Air Route Traffic Control Centers (ARTCC), Air Traffic Control Towers (ATCT), Air Route Surveillance Radars (ARSR), Beacon Only Sites, and Next Generation Radar (NEXRAD).

h. Establishment, relocation, or construction of facilities used for communications and navigation which are not on airport property.

i. Establishment or relocation of assisted landing systems (e.g., ILS) and approach light systems (ALS).

j. Federal financial participation in, or unconditional airport layout plan approval of, the following categories of airport actions:

(1) Airport location.

(2) New runway.

(3) Major runway extension.

(4) Runway strengthening having the potential to increase off-airport noise impacts by DNL 1.5 dB or greater over noise sensitive land uses within the day-night level (DNL) 65 dB noise contour.

(5) Construction or relocation of entrance or service road connections to public roads which substantially reduce the Level of Service rating of such public roads below the acceptable level determined by the appropriate transportation agency (i.e., a highway agency).

(6) Land acquisition associated with any of the items in paragraph 402j(1) through 402j(5).

k. Issuance of an operating certificate, issuance of an air carrier operating certificate, or approval of operations specifications or amendments that may significantly change the character of the operational environment of an airport, and including, but not limited to:

(1) Approval of operations specifications authorizing an operator to use turbojet aircraft for scheduled passenger or cargo service into an airport when that airport has not previously been served by any scheduled turbojet aircraft.

(2) Approval of operations specifications authorizing an operator to use the Concorde for any scheduled or nonscheduled service into an airport, unless environmental documentation for such service has been prepared previously and circumstances have not changed.

(3) Issuance of an air carrier operating certificate or approval of operations specification when a commuter upgrades to turbojet aircraft.

l. New instrument approach procedures, departure procedures, en route procedures, and modifications to currently approved instrument procedures which routinely route aircraft over noise sensitive areas at less than 3,000 feet above ground level (AGL).

m. New or revised air traffic control procedures which routinely route air traffic over noise sensitive areas at less than 3,000 feet AGL.

n. Regulations (and exemptions and waivers to regulations) which may affect the human environment.

o. Special Use Airspace if the floor of the proposed area is below 3,000 feet AGL, or if supersonic flight is anticipated at any altitude. This airspace shall not be designated, established, or modified until:

(1) The notice (notice of proposed rulemaking (NPRM) or non-rule circular) contains a statement supplied by the requesting or using agency that they will serve as lead agency for purposes of compliance with NEPA, and in accordance

(DRAFT Order 1050.1E Chapter 4)

(date of draft: October 30, 1999)

with paragraph 207, Lead and Cooperating Agencies; (e.g., restricted airspace for military use in accordance with the Memorandum of Understanding (MOU) between the FAA and the Department of Defense (January 1998)).

(2) The notice contains the name and address, supplied by the requesting or using agency, of the office representing the agency to which comments on the environmental aspects can be addressed (applicable only if an EIS is to be filed by the requesting agency).

(3) The notice contains the name and address, supplied by the requesting or using agency, of the office representing the agency to which comments on any land use problems can be addressed (applicable only if Special Use Airspace extends to the surface).

(4) The rule, determination, or other publication of the airspace action contains a statement that the FAA has reviewed and adopted the EA prepared by the requesting agency in accordance with paragraph 404.

403. IMPACT CATEGORIES. Appendix 1 of this order identifies environmental impact categories that FAA examines for most of its actions. Appendix 1 provides references to current requirements; information about permits, certificates, or other forms of approval and review; an overview of specific responsibilities for gathering data, assessing impacts, consulting other agencies, and involving the public; and any established significant impact thresholds. The responsible FAA official should contact the reviewing or pertinent approving agencies for information regarding specific timeframes for applicable review or approval processes.

404. ENVIRONMENTAL ASSESSMENT PROCESS. When the responsible FAA official has determined that the proposed action cannot be categorically excluded the responsible FAA official will begin preparing an EA. Figure 4-1, Environmental Assessment Process, presents the EA review process for a typical action. The responsible FAA official does not need to prepare an EA if an EIS is prepared.

a. The responsible FAA official or applicant begins by gathering data, coordinating or consulting with other agencies, and analyzing potential impacts. The responsible FAA official or applicant contacts appropriate Federal, Tribal, State, and local officials to obtain information concerning potential environmental impacts and maintain appropriate contact with these parties for the remainder of the NEPA process. Public involvement is an integral part of the NEPA process and the CEQ regulations require agencies to make diligent efforts to involve the public in implementing their NEPA procedures (40 CFR 1506.6(a); and paragraph 208 regarding public involvement). When the agency receives comments from the public, the comments should be handled as formal comments and included in the administrative record (see FAA "Community Involvement Manual," August 1990, and Appendix 5, Scoping Guidance).

b. Program offices must prepare concise EA documents with sufficient analysis for the following purposes to:

(1) Understand the purpose and need for the proposed action, identify reasonable alternatives, including a no action alternative, and assess the proposed action's potential environmental impacts.

(2) Determine if an EIS is needed because the proposed action's potential environmental impacts will be significant.

(3) Determine if a FONSI can be issued because the proposed action will have no significant impacts.

(4) Determine if a FONSI can be issued because mitigation will avoid the proposed action's significant impacts or reduce those impacts below significant thresholds.

(5) Provide a comprehensive approach for identifying and satisfying applicable environmental laws, regulations, and executive orders in an efficient manner (see figure 1-1 and appendix 1). Although the NEPA process does not preclude separate compliance with these other laws, regulations, and executive orders, the responsible FAA official should integrate NEPA requirements with other planning and environmental reviews, interagency and intergovernmental consultation, as well as public involvement requirements to reduce paperwork and delay, in accordance with 40 CFR 1500.4(k) and 1500.5(g). Additionally, 40 CFR 1508.27(b) and (b)(10), which define "significance" in terms of the

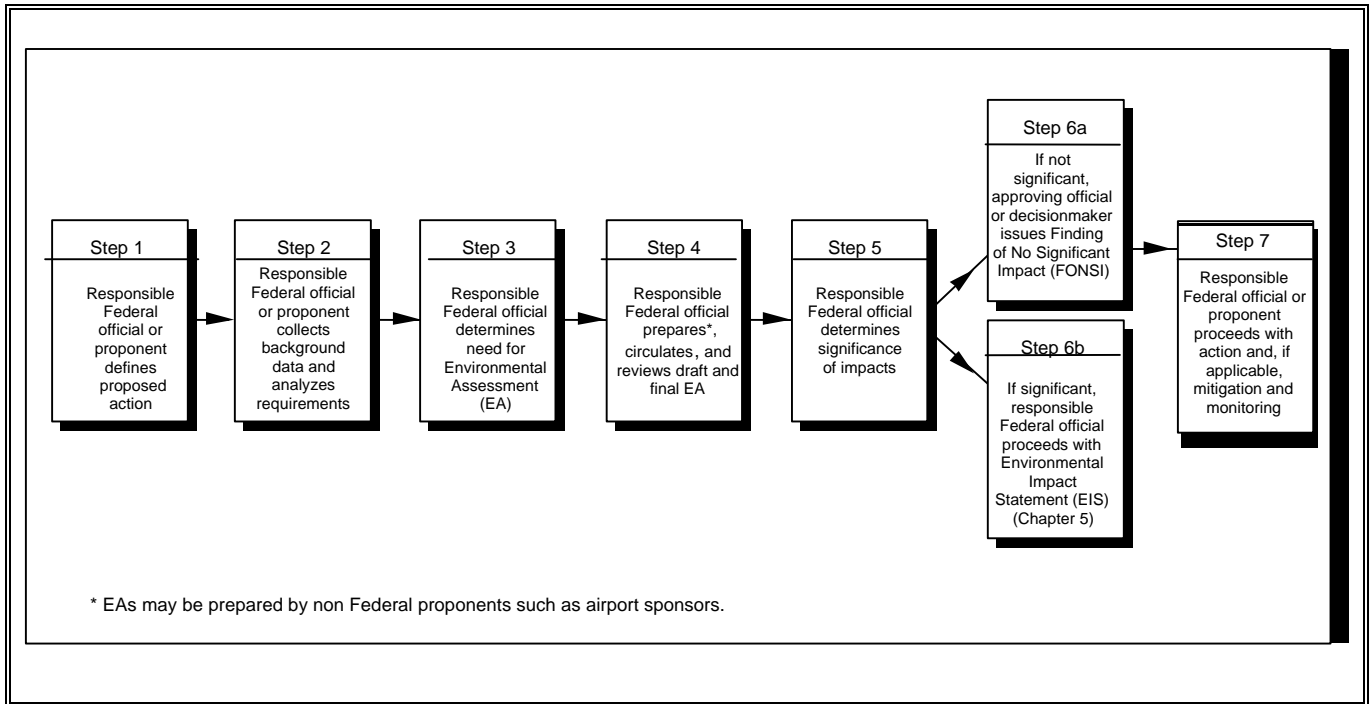
(DRAFT Order 1050.1E Chapter 4)

(date of draft: October 30, 1999)

intensity or severity of the impact and specifically in terms of “whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment,” should be considered in the event of a change in the status of the proposed action’s impacts.

- (6) Identify any permits, licenses, other approvals, or reviews that apply to the proposed action.
- (7) Identify agencies, including cooperating agencies, consulted.
- (8) Identify any public involvement activities.

Figure 4-1. Environmental Assessment Process



c. The EA should present detailed analysis, commensurate with the level of impact of the proposed action and alternatives to determine whether any impacts will be significant. If the proposed action and its alternatives will not cause impacts within specific categories of environmental impacts, a brief statement that the action is not likely to cause environmental impacts within these impact categories is sufficient. The EA may also be tiered to cover broad or programmatic proposed actions, such as rulemaking, policy decisions, and regional or national programs (see also paragraphs 409 and 513 regarding tiering).

d. FAA may adopt, in whole or in part, EAs or EA/FONSIs prepared by other agencies. When the FAA adopts an EA or the EA portion of another agency's EA/FONSI, the responsible FAA official must independently make a written evaluation of the information contained in the EA, take full responsibility for scope and content that addresses FAA actions, and issue its own FONSI. The responsible FAA official may also summarize the adopted portion followed by a direct reference to the EA. If more than three years have elapsed since the FONSI was issued, the responsible FAA official should prepare a written reevaluation of the EA (see paragraph 516). The responsible FAA official should forward a copy of the FONSI to EPA when it adopts another agency's EA or EA/FONSI (see also paragraph 518 regarding adoption of NEPA documents).

e. Internal review of the EA is conducted by potentially affected FAA program offices having an interest in the proposed action to assure that all FAA concerns have been addressed, and with AGC or Regional Counsel to assure that the EA is technically and legally adequate. For projects that originate in or are approved at FAA headquarters, the EA and FONSI should be coordinated with AGC for legal sufficiency. For projects that originate in and are approved by the regions, the EA and FONSI should be reviewed by regional counsel. The responsible FAA official should contact the environmental divisions of program offices to determine appropriate levels of coordination. The responsible FAA official should consult with AEE (Environment and Energy Team; AEE-200) for general advice on compliance with NEPA and other applicable environmental laws, regulations, and executive orders, especially for actions of national importance or which are highly controversial.

f. Upon review of the completed EA, public comments, and applicable interagency and intergovernmental consultation (see paragraph 210), the responsible FAA official will determine whether any adverse environmental impacts

(DRAFT Order 1050.1E Chapter 4)

(date of draft: October 30, 1999)

analyzed in the EA are significant. If the responsible FAA official determines that these impacts do not exceed applicable significance levels, or mitigation discussed in the EA and made an integral part of the project clearly will reduce identified impacts below significance levels, the responsible FAA official will prepare a FONSI. The approving official, who may also be the responsible FAA official, will sign the FONSI. This FONSI will either state that no significant impacts are expected or list those mitigation measures discussed in the EA that the responsible FAA official deems necessary to prevent significant environmental impacts and will make a condition of project approval. If the responsible FAA official determines that mitigation will not reduce significant environmental impacts below applicable significance thresholds, the responsible FAA official will publish a Notice of Intent (NOI) to prepare an EIS in the Federal Register to proceed.

g. If the responsible FAA official does not accept an EA prepared by another agency, the responsible FAA official shall specify in its comments to that agency whether it needs any additional information or describe the mitigation measures the FAA considers necessary to grant or approve an applicable permit, license, or related requirements or concurrences. If the responsible FAA official comments on the action agency's predictive methodology, the responsible FAA official should describe the preferred alternative methodology and explain why the FAA prefers this methodology.

(DRAFT Order 1050.1E Chapter 4)
(date of draft: October 30, 1999)

Figure 4-2. Environmental Assessment Overview

PURPOSE	Assist agency planning and decision-making by summarizing environmental impacts to determine need for: <ul style="list-style-type: none">• An EIS• Mitigation Measures
SCOPE	Addresses the proposed action's impacts on affected environmental resources.
CONTENT	Describes and identifies: <ul style="list-style-type: none">• Purpose and need for the proposed action.• Proposed action.• Alternatives considered (including the no action alternative).• Affected environment (baseline conditions).• Environmental consequences of the proposed action and alternatives.• Mitigation.• Agencies and persons consulted.
PUBLIC PARTICIPATION	

405. SAMPLE ENVIRONMENTAL ASSESSMENT FORMAT Figure 4-2, Environmental Assessment Overview, presents an overview of the EA process, while the following text describes the contents and purpose of an EA. The CEQ regulations do not specify a required format for an EA (see 40 CFR 1508.9); however, following the sample or a similar format will facilitate preparation of an EA, or EIS if an EIS is needed, and integrate compliance with other environmental laws, regulations, and Executive Orders with NEPA review. The following sample format for an EA is optional for FAA program offices to use.

a. Cover Page. This page is labeled "Environmental Assessment." It identifies the proposed action and the geographic location of the proposed action. When EAs are prepared by an applicant or contractor for an applicant, the following notification would be located at the bottom: "This Environmental Assessment becomes a Federal document when evaluated and signed and dated by the responsible FAA official."

b. Proposed Action. This discussion describes the proposed action with sufficient detail in terms that are understandable to individuals who are not familiar with aviation.

c. Purpose and Need. This discussion identifies the problem facing the proponent (that is, the need for an action), the purpose of the action (that is, the proposed solution to the problem), and the the proposed timeframe for implementing the action. The purpose and need for the proposed action must be clearly

(DRAFT Order 1050.1E Chapter 4)

(date of draft: October 30, 1999)

justified and stated in terms that are understandable to individuals who are not familiar with aviation or aerospace activities.

d. Alternatives (Including Proposed Action). The range of alternatives discussed in an EA will include those to be considered by the approving official. At a minimum, the proposed action and the no action alternatives must be considered. Other reasonable alternatives are to be considered in preparing an EA to the degree commensurate with the nature of the proposed action. Generally, the greater the degree of impacts, the wider the range of alternatives that should be considered to avoid or minimize the impacts. Whether a proposed alternative is reasonable depends upon the extent to which it meets the purpose and need for the proposed action (see also paragraph 506e for more information on alternatives). The EA briefly presents the environmental impacts of the proposed action and the alternatives in comparative form to sharply define the issues and provide a clear basis for choice among options by the approving official. For alternatives considered but eliminated from further study, the EA will briefly explain why these were eliminated. The alternatives discussion of the EA includes:

(1) A list of alternatives considered, including the proposed action and the no action alternatives. For each alternative, any connected or cumulative actions should also be considered.

(2) A statement identifying the preferred alternative, if one has been identified.

(3) A concise statement explaining why any initial alternatives considered have been eliminated from further study, i.e., they are not reasonable because they fail to meet the purpose and need for the proposed action.

(4) A listing under each alternative of any other applicable laws, regulations, and executive orders and associated permits, licenses, approvals, and reviews.

(5) **Charts, graphs, and figures**, if appropriate, to aid in understanding the alternatives, for example, to depict alternative runway configurations.

e. Affected Environment. This section shall succinctly describe existing environmental conditions of the potentially affected geographic area(s). This discussion may highlight important background material, such as previous and reasonably foreseeable development and actions, whether Federal or non-Federal. It also may include such information as actions taken or proposed by the community or citizen groups pertinent to the proposal, or any other unique factors associated with the action. However, data and analyses should be commensurate with the importance of the impact. The discussion of the affected environment in the EA may include the following, if appropriate:

(1) Location map, vicinity map, project layout plan, and photographs.

(2) Existing and planned land uses and zoning including: industrial and commercial growth characteristics in the affected vicinity, affected residential areas, schools, places of outdoor assemblies of persons, churches, and hospitals; public parks, wildlife and waterfowl refuges; Federally listed or proposed candidate, threatened, or endangered species or Federally designated or proposed critical habitat; wetlands; floodplains; farmlands; coastal zones, coastal barriers, or coral reefs; recreation areas; wilderness areas, eligible, study or designated wild and scenic rivers, Native American cultural sites, and historic and archeological sites eligible for or listed on the National Register of Historic Places.

(3) Political jurisdictions affected by the proposed action.

(4) Population estimates and other relevant demographic information for the affected environment, including a census map where appropriate.

(DRAFT Order 1050.1E Chapter 4)

(date of draft: October 30, 1999)

(5) Past, present, and reasonably foreseeable future actions, whether Federal or non-Federal, and including related or connected actions (40 CFR 1501.7(a), 1502.4(a), 1508.25(a)(1), and 1508.27(b)(7)), to show the cumulative effects (40 CFR 1508.7) of these actions on the affected environment (see CEQ Guidance on Considering Cumulative Effects Under the National Environmental Policy Act (January 1997) and EPA Guidance on Consideration of Cumulative Impacts in EPA Review of NEPA Documents (May 1999)).

f. Environmental Consequences.

(1) At a minimum, the EA must discuss the reasonably foreseeable environmental consequences of the proposed action and no action alternatives in comparative form. Environmental impacts of other alternatives that are being considered should also be discussed in the EA. Any adverse environmental effects that cannot be avoided if the proposed action is implemented and mitigation, if applicable, must be discussed. This section should not duplicate discussions in the Alternatives section. Instead, the environmental consequences section shall, for each alternative, include considerations of the following effects (40 CFR 1508.8):

(a) Direct effects and their significance (40 CFR 1508.8(a));

(b) Indirect effects and their significance (40 CFR 1508.8(b));

(c) Cumulative effects and their significance (40 CFR 1508.7; see CEQ “Considering Cumulative Effects Under the National Environmental Policy Act,” January 1997); and

(d) Possible conflicts between the proposed action and the objectives of Federal, regional, State, and local (and in the case of an Indian reservation, Tribal) land use plans, policies and controls for the area concerned (40 CFR 1502.16(c)).

(e) Other unresolved conflicts (40 CFR 1501.2(c)).

(2) For those types of impacts that the proposed action and alternatives would have, directly or indirectly, the analysis required in the respective environmental impact categories listed in appendix 1 shall be discussed to the level of detail necessary to determine the significance of the impact.

(3) Appendix 1, Analysis of Environmental Impact Areas, briefly describes the major laws, regulations, and executive orders in addition to NEPA that must be complied with for different impact areas before a proposed Federal action is approved. A proposed Federal action may fall within the purview of one or more of these requirements. The responsible FAA official must assure that proposed Federal actions comply with applicable requirements. To reduce paperwork and delay and assure that the necessary approvals and permits will be issued with or immediately following issuance of the EA and FONSI, the responsible FAA official should identify the timeframes established for review by the oversight agency and the information that the FAA will need to provide to the oversight agency to complete its review, and integrate these into the EA process. If an EA is being prepared it should include the information required to demonstrate compliance, as appropriate, with other applicable requirements.

g. Mitigation. The EA may include reasonable mitigation measures. If mitigation is discussed, it shall be in sufficient detail to describe the benefits of the mitigation. Each impact category in appendix 1 identifies conditions that normally indicate a threshold beyond which the impact is considered significant and an EIS is required for the action (see also paragraph 506h regarding mitigation). If the EA contains mitigation measures necessary to reduce potentially significant impacts below applicable significance thresholds, an EIS is not needed and the approving official may issue a FONSI after considering:

(1) Whether the agency took a “hard look” at the problem.

(DRAFT Order 1050.1E Chapter 4)

(date of draft: October 30, 1999)

(2) Whether the agency identified the relevant areas of environmental concern.

(3) For the areas of environmental concern identified and studied, whether the EA supports the agency's determination that the potential impacts will be insignificant.

(4) Whether the agency has identified mitigation measures that will be sufficient to reduce potential impacts below applicable significance thresholds and has assured commitments to implement these measures.

Proposed changes in or deletion of a mitigation measure that was included as a condition of approval of the FONSI must be reviewed by the same FAA offices that reviewed the original FONSI and must be approved by the same approving official (see paragraph 407 for monitoring mitigation). If the changes in mitigation will result in significant impacts, the responsible FAA official must then initiate the EIS process by preparing an NOI to prepare an EIS.

h. List of Preparers. When an EA is prepared by the FAA, the EA must include a list of the names and qualifications of personnel who prepared the EA. When EAs are prepared for the FAA, the EA must list the names and qualifications of the preparers of an EA. Contractors will be identified as having assisted in preparing the EA.

i. List of Agencies and Persons Consulted. The EA must include a list of agencies and persons consulted.

j. Appendixes. The EA may include the following appendixes, if applicable:

(1) Any documentation that supports statements and conclusions in the body of the EA, including methodologies and references used. Proper citations to reference materials should be provided.

(2) Evidence of coordination or required consultation with affected Federal, Tribal, State and local officials and copies or a summary of their comments or recommendations and the responses to such comments and recommendations.

(3) A summary of public involvement, including evidence of the opportunity for a public hearing, if required under applicable Federal laws, regulations, and Executive Orders, and a summary of issues raised at any public hearing or public meeting as well as agency responses to those comments.

406. FINDING OF NO SIGNIFICANT IMPACT (FONSI).

a. Purpose. The purpose of an EA is to determine if a proposed action has the potential for significant environmental impacts. If none of the potential impacts is likely to be significant, then the responsible FAA official shall prepare a finding of no significant impact (FONSI), which briefly presents, in writing, the reasons why an action, not otherwise categorically excluded, will not have a significant impact on the human environment, and the Approving Official may approve it. Issuance of a FONSI signifies that the FAA will not prepare an EIS and the FAA has completed the NEPA process for the proposed action. (The issuance of a FONSI does not mean that the agency has decided to act, only that it has found that the proposed action will not have a significant impact on the environment, see paragraph 408.) An overview of a FONSI is presented in Figure 4-3, Findings of No Significant Impact Overview.

b. Scope of Documentation. The CEQ regulations do not specify a format for FONSI, but FONSI must contain the information discussed in 40 CFR 1508.13.

(1) The FONSI may be attached to an EA, or the EA and FONSI may be combined into a single document. If the EA is not attached or combined with FONSI, the FONSI must include a summary of the EA and note any other environmental documents related to it. If the EA is attached or included with the FONSI, the FONSI does not need to repeat any of the discussion in the EA but may incorporate it by

(DRAFT Order 1050.1E Chapter 4)

(date of draft: October 30, 1999)

reference. However, the FONSI shall briefly describe the proposed action, its purpose and need, the alternatives considered, including the no action alternative, and assess and document all relevant matters necessary to support the conclusion that the action is not a major Federal action significantly affecting the quality of the human environment. The degree of attention given to different environmental factors will vary according to the nature, scale, and location of the proposed action, and thus, depending on the complexity and degree of impact of a proposed action, a FONSI may range in content from a simple conclusion, supported with pertinent facts, that the action is not a major action significantly affecting the quality of the human environment, to an analysis involving the format and content necessary for EISs.

(2) The FONSI shall determine the proposed action's consistency or inconsistency with community planning, and shall document the basis for the determination.

(3) The FONSI shall present any measures that must be taken to mitigate adverse impacts on the environment and which are a condition of project approval (see paragraph 406e). The FONSI should also reflect coordination of proposed mitigation commitments with, and consent and commitment from, those with the authority to implement specific mitigation measures committed to in the FONSI.

(4) The FONSI shall reflect compliance with all applicable environmental laws and requirements, including interagency and intergovernmental coordination and consultation, public involvement, and documentation requirements (see paragraph 403f(4) and appendix 1). Findings and determinations required under special purpose environmental laws, regulations, and executive orders, if not made in the EA, must be included in the FONSI, which may be combined with a decision document, sometimes called a Record of Decision or FONSI/ROD.

(DRAFT Order 1050.1E Chapter 4)

(date of draft: October 30, 1999)

Figure 4-3. Finding of No Significant Impact Overview

PURPOSE	Documents Finding of No Significant Impact (FONSI) and supporting mitigation measures that will be taken.
SCOPE	Explains why an action will not have a significant effect on the human environment.
CONTENT	<p>A conclusion that an action will not have a significant effect on the environment.</p> <p>Describes the proposed action, its purpose and need, and alternatives considered, including the no action alternative.</p> <p>Assesses information necessary to support findings and determinations.</p> <p>Describes applicable mitigation measures necessary to ensure that the preferred alternative will not significantly affect the environment and that are a condition of project approval.</p> <p>Describes changes that have been made in the proposed action to eliminate significant impacts.</p> <p>Includes statement of consistency or inconsistency with State, local, and Tribal, for impacts on a reservation, community planning.</p> <p>Attaches the EA or a summary of the EA for reference.</p>
PUBLIC PARTICIPATION	<p>Varies as appropriate (see 40 CFR 1501.4(e)(1) and 1506.6, and also CEQ's "40 Most Asked Questions," number 37).</p> <p>In certain cases (e.g., actions similar to those normally addressed in an EIS or the nature of the proposed action is one without precedent), a 30-day public comment period is required before proceeding with action (see 40 CFR 1501.4(e)(2) and CEQ's "40 Most Asked Questions," number 38).</p> <p>Agencies also must allow a period of public review of the FONSI, for example, if the proposed action would be located in a floodplain or wetland (E.O. 11988, section 2(a)(4), and E.O. 11990, Sec. 2(b)), or affect an eligible or listed historic property (36 CFR 800).</p>

c. Internal Review Process and Approval.

(1) FONSI's originating in the regions. The responsible FAA official will coordinate the review of the FONSI and underlying EA with affected program divisions and Regional Counsel. The responsible FAA official should contact affected program offices to obtain guidance on program office procedures for coordination. Upon request of the responsible FAA official, Regional Counsel may waive their review of the EA and FONSI for legal sufficiency. After appropriate coordination, the Division Manager or designee may approve the FONSI.

(2) FONSI's originating in the Washington, D.C. headquarters. The responsible FAA official will coordinate the review of the FONSI and underlying EA with affected program divisions, AEE,

(DRAFT Order 1050.1E Chapter 4)

(date of draft: October 30, 1999)

and AGC. The responsible FAA official should contact affected program offices to obtain guidance on program office procedures for coordination. Upon request from a Program or Office Director, AEE and AGC may waive their review. After appropriate coordination, the approving official may approve the FONSI.

(3) All FONSIIs shall include the following approval statement:

After careful and thorough consideration of the facts contained herein, the undersigned finds that the proposed Federal action is consistent with existing national environmental policies and objectives as set forth in section 101 of the NEPA and other applicable environmental requirements and that it will not significantly affect the quality of the human environment or otherwise include any condition requiring consultation pursuant to section 102(2)(C) of NEPA.

APPROVED: _____

DATE: _____

d. Coordination. FONSIIs are required to be coordinated outside of the agency for purposes of complying with special purpose environmental laws or administrative directives. Examples include but are not limited to actions involving section 404 of the Clean Water Act, section 4(f) of the DOT Act, section 106 of the National Historic Preservation Act, section 7 of the Endangered Species Act, section 307 of the Coastal Zone Management Act, section 176(c) of the Clean Air Act, section 7 of the Wild and Scenic Rivers Act, and the American Indian Religious Freedom Act. When a FONSI and any other associated required findings or determinations and their supporting documentation, if not previously submitted, are circulated to oversight agencies, for example to the State or Tribal Historic Preservation Officer for concurrence with findings required under section 106 of the National Historic Preservation Act, the FONSI and any other required findings or determinations should be accompanied by a cover letter identifying the purpose for which the information is being sent to the oversight agency, such as "in compliance with section 106 of the National Historic Preservation Act."

e. Public Review in Special Circumstances. The responsible FAA official must determine whether any of the following circumstances apply, and if so, allow for the appropriate amount of public review.

(1) The CEQ regulations (40 CFR 1501.4(e)(2); see also CEQ's "40 Most Asked Questions," number 37b) provide that in certain limited circumstances the agency shall make the FONSI available for public review for 30 days before the agency makes its final determination whether or not to prepare an EIS and before the action may begin. The 30-day public review period may run concurrently with any other Federally review. These circumstances are:

(a) The proposed action is, or is closely similar to, one normally requiring the preparation of an EIS.

(b) The nature of the proposed action is one without precedence.

(2) When the action involves special purpose environmental laws, regulations, or executive orders which require public notice of specific findings or determinations apart from the FONSI made under NEPA. Examples include but are not limited to section 2(a)(4) of E.O. 11988, Floodplain Management, section 2(b) of E.O. 11990, Protection of Wetlands, section 7 of the Endangered Species Act, section 106 of the National Historic Preservation Act.

f. Distribution. The FONSI and EA are filed in the office of the responsible FAA official. A copy of the FONSI and EA shall be sent to the affected program offices, if required by those offices. A copy of

(DRAFT Order 1050.1E Chapter 4)

(date of draft: October 30, 1999)

the FONSI and EA shall also be sent to any reviewing agencies, organizations, or individuals that had substantive comments.

g. Public Availability. The CEQ regulations state that Federal agencies shall make FONSIIs available to interested or affected persons or agencies (see 40 CFR 1506.6). Methods of announcing the availability of a FONSI, such as publication in local newspaper or notice through local media, are described in 40 CFR 1506.6(b). The announcement will indicate locations at which the FONSI and its associated EA are available and other appropriate locations of general public access. Copies of FONSIIs and associated EAs will be provided, on request, free of charge or at a fee commensurate with the cost of reproduction.

407. MONITORING MITIGATION. Mitigation and other conditions established in the EA and FONSI, or during their review, and included as a condition of the project approval or licensing shall be implemented by the lead agency or other appropriate consenting agency. The FAA shall take steps through grant agreements, licenses, contract specifications, operating specifications, directives, other project review or implementation procedures, or other appropriate mechanisms to monitor implementation of mitigation set forth in the approved EA/FONSI. Mitigation included as special conditions in the FONSI can be imposed as enforceable conditions of the final decision or of funding or grant agreements, contract specifications, preferential arrival and departure procedures, licenses, permits, directives, other project review or implementation procedures, or other appropriate follow-up actions to ensure that mitigation is implemented (see CEQ's "40 Most Asked Questions," number 39).

408. DECISION DOCUMENTS FOR FINDINGS OF NO SIGNIFICANT IMPACT.

a. Immediately following the approval of a FONSI, except in the circumstances identified in paragraph 406e, the FAA decisionmaker may decide whether to take the proposed action. Mitigation measures which were made a condition of approval of the FONSI and the steps taken to assure appropriate commitment and follow-up of mitigation measures shall be included in the FONSI and incorporated in the decision to implement the action. If the FAA decides to proceed with the proposed Federal action, then the decision may be included with the FONSI or in a separate decision document, sometimes called a ROD or FONSI/ROD. Preparation of a record of decision to proceed with an action for which a FONSI has been approved is optional. A record of decision is recommended in the circumstances described in paragraph 408b. If the responsible FAA official prepares a record of decision, it should include a description of the action, the location and timing of the action, the FONSI, any other required findings or determinations, and the signature, name, title, address, and telephone number of the approving FAA official.

b. The responsible FAA official should prepare formal documentation of the decision to proceed (e.g., a record of decision (ROD) or FONSI/ROD) for:

(1) Actions which have been redefined to include mitigation measures necessary to reduce potentially significant impacts below applicable significant thresholds (see paragraph 405g).

(2) Actions that are highly controversial.

(3) Actions that are, or are closely similar to, those normally addressed in an EIS (see paragraph 406e).

(4) Actions that have no precedent (see paragraph 406e).

In cases of doubt, the responsible FAA official should consult the Environmental Law Branch (AGC-620) of the Office of the Chief Counsel or Regional Counsel.

409. TIERING AND PROGRAMMATIC ENVIRONMENTAL ASSESSMENTS. The concept of tiering for EISs may be used for preparing EAs. The responsible FAA official may tier off completed EAs and EISs if the responsible FAA official after finding that these are current and meet FAA requirements.

(DRAFT Order 1050.1E Chapter 4)

(date of draft: October 30, 1999)

Permitting and review agencies may have independent requirements for review of previously prepared documents (see paragraph 513).

410. WRITTEN RE-EVALUATION. The procedures in paragraph 515 may also be applied to EAs.

411. REVISED OR SUPPLEMENTAL ENVIRONMENTAL ASSESSMENTS OR FONSI. The procedures in paragraph 519 may also be applied to EAs..

412. REVIEW AND ADOPTION OF EAs PROPOSED BY OTHER AGENCIES. See paragraphs 404d, 404g and 518.

413.-499. RESERVED.